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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,872	01/09/2004	Mike Jones	85081-102	6114
23529	7590	04/07/2008		
ADE & COMPANY INC. 2157 Henderson Highway WINNIPEG, MB R2G1P9 CANADA			EXAMINER STERRETT, JONATHAN G	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 04/07/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/753,872	<b>Applicant(s)</b> JONES, MIKE	
	<b>Examiner</b> JONATHAN G. STERRETT	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-23-04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This **Non-Final Office Action** is responsive to 9 January 2004. Currently **Claims 1 and 2** are pending.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaspard II US 2002/0055818 (hereinafter **Gaspard**)

Regarding **Claim 1**, Gaspard teaches:

**1. A system for tracking the schedule of a shipping vehicle, said shipping vehicle having a shipment delivery time at a destination, said system comprising:**  
**a shipment terminal, said shipment terminal**  
**comprising:**

**an input device for entering data;**

para 55, an input device provides for inputting electronic equipment information (e.g. a speedometer reading) for transmission to the host.

**an output device for displaying alerts;**

para 46, the vehicle has an output device for displaying a new generated schedule (i.e. an alert).

**a locator for determining a current location of the shipping vehicle; and**

para 38, the vehicle has GPS locator.

**a compiler for determining estimated time of arrival at the destination based on the current location;**

para 43 and 44, the host terminal determines ETA based on the GPS location of the vehicle.

**a dispatch terminal arranged to compare the shipment delivery time, the estimated delivery time and the distance from the current location to the destination and determine if the shipment will be late; and**

para 43 and 44, the host (i.e. dispatch terminal looks at the position information of the shipment and the destination to update the time the vehicle will arrive (i.e. determine if the vehicle will be late.

**a communications link connecting the dispatch terminal and the shipment terminal for communication therebetween.**

Para 38, there is a communications link for communicating GPS data from the vehicle to the host terminal.

Gaspard teaches determining ETA and whether a vehicle will be late but does not teach where the computer terminal in the vehicle provides for determining ETA and

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determining if the shipment will be late. However, Official Notice is taken that it is old and well known in the art to provide vehicles with the computer functionality provided by the host terminal in Gaspard. The decision of where to locate the computer to provide the functionality taught by Gaspard is a design choice and does not patentably distinguish over Gaspard.

It would have been obvious to one of ordinary skill in the art to locate the computing functionality of determining ETA and determining if a vehicle would be late within the vehicle itself because it would have been obvious to try and provide vehicles with this functionality individually for the purpose of updating the position and schedule status of the vehicle itself. The inclusion of this functionality within the vehicle itself would also provide a predictable result through providing each vehicle with the capability of determining their ETA and whether or not they are running late.

**Claim 2** recites similar limitations to those addressed by the rejection of **Claim 1** above, and is therefore rejected under the same rationale.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2002/0138352 by Dimaggio discloses a method and system for managing freight operations.

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US 2003/0036935 by Nel discloses a method and system for allocating freight haulage jobs.

Leavitt, Wendy; "All Work and Play", Nov 2000, Fleet Owner, 95, 11;  
ABI/INFORM Global, p.75.

Muralidharan, B; "Dynamic Routing and Service Network Design for less-than-truckload (LTL) Motor Carriers", 1997, Iowa State University, Ames, Iowa, PhD  
Dissertation, pp.1-94.

Ichoua, Soumia, et al. "Diversion Issues in Real-Time Vehicle Dispatching", Nov 2000, Transportation Science, 34, 4; ABI/INFORM Global, p.426.

Mele, Jim; "A New Wireless World", June 2001, Fleet Owner, Overland Park, Vol. 96, Iss. 6, p.88, ProQuest ID 74324501.

Cheung, Raymond K; Muralidharan, B.; "Dynamic Routing for Priority Shipments in LTL Service Networks", Feb 2000, Transportation Science, 34; 1, ABI/INFORM Global, p.86.

Cheung, Raymond K; Muralidharan, B.; "Impact of Dynamic decision making on hub-and-spoke freight transportation networks", 1999, Annals of Operations Research, 87, ABI/INFORM Global, p.49.

"Off the wire", Aug 1998, Fleet Owner, Vol 93, Iss 8, p.TC5, ProQuest ID 33739571.

Leavitt, Wendy, "www.productivity.com", Jan 2000, Fleet Owner, Iss 1, p.19, ProQuest ID 49011151.

"The National Transportation Exchange", NTE.net web.archive.org webpages of Sept 2, 1999, Press Release of Sept 8, 1997. pp.1-3.

Raskob, John, "Managing the Supply Chain", Mar/Apr 2000, Ivey Business Journal, Vol 64, Iss 4, p.52, ProQuest ID 68834588.

Business Wire, "CFI's Surfside Announces Partnership with Qualcomm and other leading Infrastructure Providers", July 24, 2000, New York, ProQuest ID 56782725.

Gumaer, Robert, "Beyond ERP and MRP II", Sept 1996, IIE Solutions, Vol 28, Iss 9, p.32, ProQuest ID 10136370.

"Warehouse Management Logistics", June 2000, Frontline Solutions, Vol 1, Iss 7, p.22, ProQuest ID 56151681.

"Carriers FAQ", NTE.net web.archive.org webpages of March 2, 2000, pp.1-6.

"The National Transportation Exchange", web.archive.org webpages of Sept 2, 1999, Press Release of September 11, 1998, pp.1-2.

Harvey, Joseph, "Better distribution through technology", Aug 2000, Beverage World, v119n1693, pp.54, Dialog 02059939 59210696.

Cox, John, "Working the wireless web", Apr 2000, Network World, v17n15, pp. 1, Dialog 02010872 52522401.

Harrington, Lisa H, "High tech trucking improves fleet performance", Oct 1999, Transportation and Distribution, v40n10, pp.53-62, Dialog 01913932 05-64924.

"ARINC", May 2000, Trucking Technology, v7, n2, p.19, Dialog 07623104 62919232.

"Rating/Routing Software: Make special deliveries routine", Nov 1996, Transportation and Distribution, p.60, Dialog 04653307 46845880.



Business Editors & Computer/Electronics Writers, "Qualcomm 3: Qualcomm announces agreement in principle to remarket IBM RoadRider OBC to OmniTRACS customers", Nov 1 1993, Orlando, Florida, Dialog 0366223.

"Runnin' on Data", April 1995, US Distribution Journal, p.22, Dialog 03829953.

Gormley, Mal, "Tracking the Fleet", July 1997, Business & Commercial Aviation, Vol 81, No. 1, p.90, Dialog 00867557.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 3-28-08

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623